

**STATE CONTROLLER'S OFFICE
RISK ASSESSMENT – HIGHER EDUCATION
WORKING DRAFT FOR PILOT PROGRAM
As of November 22, 2006**

CLIN CONTRACT ROUTING NUMBER: _____ **Vendor name:** _____

BACKGROUND: As a result of the State Controller's Office Contract Improvement Process Initiative conducted in the fall of 2006, the State Controller has determined that there are now categories of risk associated with state contracts. For purposes of this discussion, the categories are described as: "automatic low risk" and "automatic high risk". Automatic "low risk" contracts do not need a risk assessment and can be signed off by the agency/institution controller or other delegate; however automatic "high risk" contracts will now require the review and approval of the State Controller. These contracts will no longer be delegated to the agency controller for review and signature.

The following are considered **"automatic low risk"**:

- Interagency agreements using the state's standard contract template. Amendments to interagency agreements are also included.
- Current Phase I waived contracts approved and reviewed by the Attorney General Office and State Controller's Office.
- Other approved agency specific contract templates previously approved and authorized in writing by the State Controller which are not part of the Phase I waiver program;
- Modification tools – options, change orders, funding letters, task orders which are consistent with the original contract and in compliance with the State Controller's policy on *"State Contract Modifications"*.
- Amendments:
 1. Extend ending date by one year;
 2. Any rate increases consistent with the terms of the original contract;
 3. Do not change the scope of the original contract;
 4. Less than 3 amendments; (4 or more amendments to the same contract requires a "risk factor" analysis to be completed);
 5. Re-statement of amendments – (which incorporates all prior amendments plus original contract);
 6. Making changes that are required and consistent with state law such as the addition of the Illegal Alien language to the Special Provisions.

The following are considered **"automatic high risk"**. These contracts are required to be forwarded to the State Controller for review and approval. *

- Contingency contracts defined in CRS 24-17-203;
- Energy Performance contracts CRS 24-30-200;
- All lease purchase contracts and lease purchase contracts with an option to buy (except for Higher Education);
- Operation of prison contracts;
- Master Task Order Contracts;
- All land purchases;
- All sales of state owned land and property;
- Outsource contracts as defined in Fiscal Rule 3-1;
- COPS (certificates of participation);
- Contracts that involve dangerous activities or hazardous materials;
- Employee Settlement agreements; and
- Employee Voluntary Separation agreements

* The State Controller may provide specific delegation to an agency for these items depending on agency expertise in the particular subject matter.

Risk Factor Checklist Instructions: If neither automatic risk defined above applies, please complete this checklist by indicating low, medium or high risk for each factor listed, and then make an overall risk determination.

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Dollar Amount of Contract and Risk Assessment

Prior to completing the Risk Assessment, the agency would determine the dollar amount of the contract and review the following:

- A. Dollar amount is beyond dollar limits or range amount delegated to the agency by the State Controller. Agency must complete the Risk Assessment. SCO/AG or University Counsel review and approval is required if determined to be high risk.
- B. Dollar amount does not exceed dollar limits or range amount delegated to the agency by the State Controller. Proceed to complete the risk assessment if any of the following factors are present:
 - (1). Contract raises issues under Federal privacy statutes, or
 - (2). Contract involves hazardous vendor activities that raise special liability/insurance issues, or
 - (3). Contract involves transfer of intellectual property rights from agency to vendor, or
 - (4). Contract exceeds \$_____ (threshold amount for required use of Special Provisions) and
 - (a). Contract provisions on limitation of vendor liability/vendor indemnification obligations fall outside of agency policy guidelines, or
 - (b). Contract provisions have choice of law and/or jurisdiction and/or venue outside of Colorado, or
 - (c). Contract modifies Special Provisions other than Special Provision # 3 or choice of law under Special Provision # 6

If none of the factors 1 through 4 are present, and the contract does not exceed the dollar limits delegated to the agency by the State Controller, then no further risk assessment is required and no SCO/AG or University Counsel review and approval is required.

However, the agency can still choose to send the contract to University Counsel if there are other factors of concern.

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Low	Medium	High	N/A	Factor	
			1	Dollar Amount of Contract	
				A	Dollar Amount is beyond dollar limits or range amount delegated to the agency by the State Controller. (NOTE: For purposes of the "pilot", \$100,000 and below is low risk; above \$100,000 is high risk). Please explain high risk in Comments section below
			2	Contract Format	
				A	The state's standard model contract or the standard wizard contract template has been used.
				B	The State's current version of the Special Provisions used without any modifications.
				C	State's General Provisions used without modifications (no deletions or additions).
				D	Pre-Approved SCO contract template used without modification.
				E	Vendor is asking to change terms and conditions that would create a high impact and high probability of risk.
				F	Agency amends vendor's form agreement to create State contract that complies with State fiscal rules and policies
			3	Statement/Scope of Work	
				A	Meets State Uniform Standards, Clearly Written and Defined as to the work being performed.
				B	The SCO Statement of Work Form Used Without Modification
				C	A detailed budget is with the contract that clearly explains all expenditures of the contract dollars.

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Low	Medium	High	N/A	Factor	
			4	Contract Nature and Complexity	
				A	Within Agency Norms and Experience
				B	Purchase is for existing technology, services or goods (NOT new technology)
				C	NOT Complex IT Services/Software Development or other services (Multiple Government Jurisdiction Impact)
			5	Contract Has Other Unusual Activities or Circumstances Suggesting Adverse Risk to the State	
				A	State staff does NOT rely on Contractor to Transfer Knowledge to State Employees for technical contracts
				B	Contract is "Revenue Generating", there are NO terms and conditions that obligate the State to compensate the contractor.
				C	Simple lease that does NOT include build out/construction requirements by Lessor.
				D	Contract is within the 5-year limit.
				E	There is adequate insurance required for the contract. The contract does NOT need extra insurance protections.
				F	Warranties are sufficient
				OVERALL CONCLUSION - What category of risk is your contract?	

WRITTEN EXPLANATIONS

High Risk If your overall conclusion is that this contract is deemed "high risk", then please prepare an Executive Summary that explains the reasons for the high risk and the steps the agency has taken to address the risks, and attach this documentation with the Risk Assessment.

Low Risk If your overall conclusion is that this contract is deemed to be "low or medium risk," then please explain why in the space below.

Comments Please add any comment to further explain any of the factors stated above. If more space is needed, please attach an additional sheet with your comments.